

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

GEORGE MOSES and JANIS WHITE,

Defendants.

DECISION AND ORDER

6:19-CR-06074 EAW

Pending before the Court are a motion filed by defendant George Moses (“Moses”) seeking to sever his trial from that of his co-defendant Janis White (“White”) (Dkt. 53), and a motion to sever filed by White (Dkt. 68)¹. Moses filed his motion on December 2, 2019, seeking to sever the trial of his case from White’s trial pursuant to Federal Rule of Criminal Procedure 14.² On January 21, 2020, the Court issued a Decision and Order denying Moses’ request to be tried separately from White on the counts in which they are both charged and the related count where only Moses is charged, but reserving decision on Moses’ request to sever White’s obstruction counts. (Dkt. 63).

White’s severance motion was filed pursuant to Federal Rule of Criminal Procedure 14(a) seeking to sever the jointly charged counts against Moses and White (and the related

¹ White sought other forms of relief with her omnibus motion (*see generally* Dkt. 68), but it was confirmed during the oral argument on May 29, 2020, that all issues other than the request for severance had been resolved.

² Moses also sought severance of certain aspects of the tax counts, but any outstanding request in that regard was withdrawn by letter dated June 12, 2020. (Dkt. 98).

counts, including the obstructions counts) from all other counts charged only against Moses. (Dkt. 68 at 9-17).

Oral argument was held before the undersigned on May 29, 2020. (Dkt. 95). At that appearance, counsel for Moses and White both voiced their consent to trying each defendant separately—but the Government opposed that request. The Court reserved decision and requested further briefing. (*Id.*). The matter was taken under advisement as of June 19, 2020 (*id.*), and an Order was entered on July 20, 2020, granting a continuance until August 17, 2020, to render a decision (Dkt. 108).

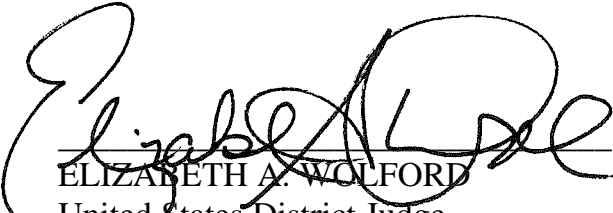
A further appearance was held before the undersigned on August 12, 2020 (Dkt. 115), at which time the Court raised questions concerning Federal Rule of Criminal Procedure 8(b) (which had not been the basis for White's severance motion) and the propriety of joining White at trial with counts charged only against Moses involving unrelated alleged fraud schemes. Based on the discussion at that appearance, the Court issued a Text Order setting forth deadlines for supplemental submissions concerning White's severance motion and oral argument was scheduled for September 16, 2020. (Dkt. 114).

After the appearance on August 12, 2020, the Government filed a letter indicating that it would now consent to White being tried separately from Moses on the counts with which she is charged (currently Counts 12, 13, 15 and 16 of the Fourth Superseding

Indictment).³ (Dkt. 118). Neither White nor Moses object to this relief, and indeed, it is the relief expressly requested by Moses in his pending severance motion.⁴

Accordingly, for the reasons set forth herein and with the consent of all parties, the severance motions of Moses (Dkt. 53) and White (Dkt. 68) are granted to the extent that White will be tried separately from Moses. The previously issued Pretrial Order (Dkt. 105) shall govern Moses' trial, which remains scheduled for May 3, 2021. A telephone status conference is scheduled for Thursday, August 27, 2020, at 3:00 PM, for the purposes of discussing White's trial date. The oral argument scheduled for September 16, 2020, is hereby cancelled and the Text Order requiring supplemental submissions with respect to the pending severance motions is hereby vacated.

SO ORDERED.



ELIZABETH A. WOLFORD
United States District Judge

Dated: August 24, 2020
Rochester, New York

³ In its letter the Government states that White is charged in "Counts 10, 11 and 13 and 14" (Dkt. 118 at 1), but that is incorrect.

⁴ Although White's severance motion only sought severance from the counts where Moses is charged on separate alleged fraud schemes (Dkt. 68 at 9-10), at oral argument counsel for White indicated his consent and request that White be tried separately from Moses.